IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Crl.Rev.Pet.No. 3398 of 2007()

CRA.100/2007 of ADDL.SESSIONS COURT (ADHOC), KOTTAYAM
CC.633/2003 of JUDL. MAGISTRATE OF FIRST CLASS, CHANGANACHERRY

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REVN. PETITIONER: APPELLANT/ACCUSED

ABDUL LATHEEF, AGED 55 YEARS,
S/O.HAMMED,RAVUTHAR,CHAMAPARAMBIL HOUSE,
P.O. CHANGANACHERRY,KOTTAYAM DISTRICT.

BY ADV. SRI.K.RAMACHANDRAN
SMT.R.MEERA

RESPONDENTS: RESPONDENT

STATE OF KERALA,REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J

Crl.R.P. No. 3398 of 2007

Dated: 26-09-2007

O R D E R

The revision petitioner who was the sole accused in C.C. 633 of 2003 on the file of the J.F.C.M. Changanachery challenges the order concurrently passed against him by the courts below for an offence punishable under Sections 379 I.P.C.

2. The case of the prosecution can be summarised as follows:-

On 24-4-2003 at about 2 p.m. the accused committed theft of a gold bangle weighing 2 ½ grams of sovereigns worn by the three year old grand - daughter of the de facto complainant P.W.1. while at the K.S.R.T.C. Bus Station at Changanacherry.

3. On the side of the prosecution, six witnesses were examined as P.Ws. 1 to 6 and four documents were got marked as Exts.P1 to P4 and one material object as MO1.

4. The accused denied the incriminating circumstances appearing against him in the evidence for the prosecution when examined under Sec. 313 (1) (b) Cr.P.C. and maintained his innocence. He did not adduce any defence evidence.

5. The learned Magistrate, after trial, as per judgment dated

30-12-2006 found the revision petitioner guilty of the offence and sentenced him to imprisonment for six months. On appeal preferred by the revision petitioner as Crl.A.100 of 2007 before the Sessions Court, Kottayam, the Addl. Sessions Judge (Adhoc – I), Kottayam as per judgment dated 10-07-2007 confirmed the conviction but reduced the imprisonment to simple imprisonment for one month. It is the said judgment which is assailed in this revision.

6. Eventhough the learned counsel appearing for the revision petitioner challenges the conviction entered and the sentence passed against him on various grounds, I am not satisfied that the conviction recorded against the revision petitioner is unsustainable and requires to be dislodged. This was a clear case of the accused being detected ***flagrante delicto,*** that is, in the very act of committing the offence. P.W.1 (Ponnamma) was waiting for the bus at the K.S.R.T. C. Bus Station, Changanacherry on 24-4-2003 at about 2 p.m.. P.W.1 was about to get into the bus which arrived at the bus station. She was carrying her three year old grand-daughter who was wearing MO1 gold bangle. P.W.1 was accompanied by her elder sister. Soon after she got into the bus, the persons who were waiting behind her in the bus stand apprehended the accused alleging that he had removed the gold bangle from the child. The accused was

restrained by those persons and the gold bangle was seized from his hand. This testimony of P.W.1 gains corroboration from the evidence of P.W.4 a police constable stationed in the K.S.R.T.C. bus station. The conviction was rightly recorded by both the trial court as well as the appellate court.

7. With regard to the sentence imposed on the revision petitioner, the lower appellate court has been too indulgent in reducing the rigorous imprisonment of six months to simple imprisonment for one month for the conviction under Sec. 379 I.P.C. It was got ascertained through the learned Public Prosecutor as to whether the revision petitioner is involved in other crimes and the reply was that he was having sufficiently bad antecedents. Under these circumstances, I see no reason to interfere with the sentence imposed on the revision petitioner.

This revision is dismissed confirming the conviction recorded and the sentence passed.

V. Ramkumar, Judge.

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